IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION

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§ 2:15-CV-117-D
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ORDER

After making an independent review of the pleadings, files, and records in this case, the June 25, 2018 findings, conclusions, and recommendation of the magistrate judge, and petitioner's July 5, 2018 objections, the court concludes the magistrate judge's findings and conclusions are correct. It is therefore ordered that petitioner's objections are overruled, the recommendation of the magistrate judge is adopted, and the petition for a writ of habeas corpus is denied.

Alternatively, even if petitioner is correct and his petition should be analyzed as a challenge under 28 U.S.C. § 2254(d)(1), he has failed to demonstrate that the state court proceedings resulted in a decision that was contrary to clearly established Federal law as determined by the Supreme Court of the United States.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing Section 2254 Proceedings in the United States District Courts, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case, and this court's order, in support of its finding that the petitioner has failed to show (1) that reasonable

jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

- () petitioner may proceed in forma pauperis on appeal.
- (X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

July 26, 2018.

UNITED STATES DISTRICT JUDGE